



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/666,213	09/21/2000	Melissa I. Dopps	WEYC116173	9095

26389 7590 01/21/2004

CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE, WA 98101-2347

EXAMINER

STEPHENS, JACQUELINE F

ART UNIT PAPER NUMBER

3761

DATE MAILED: 01/21/2004

13

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/666,213

Applicant(s)

DOPPS ET AL.

Examiner

Jacqueline F Stephens

Art Unit

3761

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 15 December 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-14, 16-35, 38, 41-48.Claim(s) withdrawn from consideration: 49-55.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____


GLENN K. DAWSON
PRIMARY EXAMINER

Continuation of 5. does NOT place the application in condition for allowance because: 1. Applicant's arguments regarding the rejection of claims 1, 4-9, 11-13, 20, 24-35, 38, 41, and 45-47, under 35 U.S.C. 102(b) as being anticipated by Ahr USPN 5733273 have been fully considered but they are not persuasive. Applicant argues Ahr does not teach fibrous bands substantially free of superabsorbent material. However, Ahr teaches the amount of superabsorbent in the fibrous bands can vary, and the fibrous bands near the body facing surface can have 0-50% by weight of superabsorbent (col. 7, line 64 through col. 8, line 1). At 0% the aforementioned fibrous bands are free of superabsorbent material. Applicant further argues the bands of the claimed composite does not vary. However, this argument is not commensurate with the scope of the claims. Applicant claims the composite comprises one or more bands that are substantially free of superabsorbent material. While Ahr provides band that contain superabsorbent, Ahr also provides bands that are substantially free of superabsorbent. The 'comprising' language used in the independent claims is inclusive or open-ended and does not exclude additional unrecited elements, compositional components, or steps.

Arguments regarding claims 19 and 21-23 are not persuasive for the reasons cited above, as these claims depend from claim 1.

2. Applicant's arguments regarding the rejection of claims 1,-3, 5, 6, 9-14, 16-18, 26, 27, 38, 41, and 45-47 under 35 U.S.C. 103(a) as being unpatentable over Fendler USPN 4372312 in view of Kenmochi USPN 5613962 have been fully considered but they are not persuasive. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the examiner has relied on Kenmochi for the teaching of superabsorbent in an absorbent or storage layer. It is old and well known in the art that the incorporation of superabsorbent material in absorbent cores allows greater efficiency of the absorbent product as well as allowing the manufacturer to produce a thinner, less bulky product. Fendler discloses these are two problems his invention is attempting to solve (col. 1, lines 10-19). Therefore, it would have been obvious to one having ordinary skill in the art to provide the article of Fendler with the superabsorbent particles taught in Kenmochi for the benefit of increasing the absorbency of the base material, and thus providing more efficient use of the absorbent product. As to the arguments concerning the Kenmochi reference, the argument is moot as the examiner has not relied on Kenmochi alone to teach a composite having one or more fibrous bands in a fibrous base.

Arguments regarding claims 28 are not persuasive for the reasons cited in paragraph 2 above, as claim 28 depends from claim 1.

Arguments regarding claims 42 and 43 are not persuasive for the reasons cited in paragraph 2 above, as these claims include the composite of claim 1.

Arguments regarding claims 48 are not persuasive for the reasons cited in paragraph 2 above, as claim 48 depends from claim 1.